

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATE OF AMERICA)
)
Plaintiff,)
)
v.) Case No. 08-CR-81-JHP
)
DAVID NEAL CLARY,)
)
Defendant,)

ORDER

An Motion to Determine Competency was filed by Defendant on December 10, 2008. The Court granted the motion and ordered that a psychiatric or psychological examination of the defendant be conducted and that a report be filed with the Court. Thereafter, the defendant was evaluated by Lisa Bellah, Ph.D., a licensed psychologist and her report was filed on March 23, 2009 (Dkt. No. 22). In Dr. Bellah's report she states that it is her opinion "the defendant does not currently appear to suffer from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense.

After receiving the Report prepared by Dr. Bellah, the Court held a competency hearing on April 2, 2009. At the hearing, the parties stipulated to the Report, but presented no additional evidence or testimony.¹

Based upon the conclusions set forth in Dr. Bellah's Report, the Court finds that Defendant is not presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him

¹ Defendant also filed a Notice of Stipulation of Admissibility of Competency (Dkt.# 26) prior to the hearing on March 27, 2009.

or to assist properly in his defense. 18 U.S.C. § 4241(d); *see Nguyen v. Reynolds*, 131 F.3d 1340, 1346 (10th Cir. 1997) (“Competence to stand trial requires that a defendant have ‘sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding’ and ‘a rational as well as factual understanding of the proceedings against him.’”) (quoting *Dusky v. United States*, 362 U.S. 402, 402 (1960)).

Accordingly, the Court finds that Defendant is competent to proceed to trial.

IT IS SO ORDERED this 3rd day of April, 2009.



James H. Payne
United States District Judge
Eastern District of Oklahoma